Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. MCCONNELL, Mr. LEAHY, and Mr. LAUTENBERG):

S. 1064. A bill entitled ''The Middle East Peace Facilitation Act of 1995''; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. 1054. A bill to provide for the protection of Southeast Alaska jobs and communities, and for other purposes; to the Committee on Energy and Natural Resources.

THE SOUTHEAST ALASKA JOBS AND COMMUNITIES PROTECTION ACT

Mr. MURKOWSKI. Mr. President, I rise today to reluctantly reinitiate a debate concerning the management of the Tongass National Forest. I thought and hoped that Congress had resolved this issue with the passage of the Tongass Timber Reform Act of 1990 (TTRA). I want to emphasize my reluctance and unhappiness with the need to initiate corrective legislative action because the Tongass Timber Reform Act of 1990 was hailed by all concerned as a dramatic resolution to a long-standing debate on how to manage the Tongass. The congressional deliberations leading up to passage involved, as Senator JOHNSTON, my colleague from Louisiana, put it ''extraordinary cooperation'' among all of the parties involved.

When we passed the Tongass Timber Reform Act in 1990, I believe that Congress agreed with the Bush administration that—as long as the demand for timber existed—the industry should be provided sufficient volume from the remaining 1.7 million acre commercial forest land base to maintain the same amount of direct timber employment from operations on the Tongass National Forest that it enjoyed in 1990. I believe that all parties agreed that maintaining this level of employment was part of the compromise underlying the bill.

Well, the Congress withdrew 1.1 million acres of land; and the Bush administration unilaterally modified the long term timber sale contracts on the Tongass, and required buffer strips on all major anadramous streams. But the jobs portion of the compromise has been largely ignored by the current administration. Since 1990, direct timber employment on the Tongass National Forest has been reduced by more than 42 percent. As I see it, there are two principal reasons for this decline: First, the Forest Service has failed to seek to meet market demand as required by TTRA section 101; and second, a variety of environmental groups have administratively appealed or litigated most proposed timber sales. Today 13 of 23 currently proposed sales are held up because of legal action taken by the environmentalists. These enjoined sales now make it impossible for the Forest Service to ameliorate the impacts of the sales it has withdrawn from the pipeline.

What is happening in southeast Alaska is unfortunately not unique. Through a combination of Clinton administration initiatives and environmental group litigation we are seeing all forms of economic activity—timber, grazing, mining, and oil and gas exploration—driven off our public lands throughout the country. We are engaged in a policy of exporting both our jobs and some of our environmental problems to other nations. They will meet our material needs through production processes far less sophisticated and environmentally sensitive than our own. I represent the largest national forest in our system. I cannot believe that this forest cannot be managed to sustain a forest industry. I can no longer stand by as that industry is destroyed.

Let me first turn to Forest Service malfeasance and nonfeasance, for it is with the Agency's performance that I am most unhappy. There are four reasons why the Forest Service has been unable or unwilling to meet market demand: First, the Forest Service in Alaska has reinterpreted the definition of ''viable population of a species'' such that it is managing habitat to require that all species exist on all areas of the Tongass, not just the portion of the Tongass to which a particular species is indigenous; second, in accordance with its new hypersensitivity to species protection, the Forest Service in the spring of 1994 canceled the Alaska Pulp Corporation [APC] long term contract, withdrew 600,000 acres, and related timber sales, from the 1.7 million acre commercial forest land base remaining after the 1990 act, and moved Ketchikan Pulp Company [KPC] into the APC contract areas so that habitat conservation areas [HCAs] and goshawk reservation areas could be established on a portion of KPC's then existing sales; third, the Forest Service has subordinated Section 101 of TTRA to species protection concerns, interpreting this part of the compromise as nonbinding; and fourth, the environmental groups lawsuits have eliminated the Agency's ability to offset the effects of the first three developments.

My most immediate concern with the situation that the Forest Service has created is that it is rapidly getting worse. That is why I, along with other members of the Alaska Delegation, have come to the conclusion that we must act today. Let me describe the situation that exists.

The log shortage commenced with the Forest Service action in setting aside habitat conservation areas and goshawk reservation areas in the spring of 1994, continues to cause job reductions, and now threatens new job reductions. KPC has approximately 120 mmbf of timber on hand, needs approximately 220 mmbf to get through the winter until April or May of 1996, and can only achieve this additional volume if timber which is currently enjoined is made available by the Forest Service during this timber harvest season. Meanwhile, the Ketchikan sawmill is closed, the Wrangell sawmill is closed, and the Annette sawmill is operating on one shift only.

The timber sales program for the independent and small business timber industry, SBA, currently has 63.6 million board feet of timber under contract as of July 1, 1995. Only 5.92 million board feet of newly advertised SBA and independent timber sales have been made available in 1995 from all three supervisory areas of the Tongass. This should result in one independent SBA production facility closing by September 30, 1995, with a further reduction of regional, independent sawmill operations in the first quarter of 1996.

The Forest Service's response to this situation is to continue to assure the Alaska Delegation to rely on the Agency to rectify the crisis as they complete the Tongass Land Management Plan [TLMP] revision process. At first, this sounded attractive. But then we looked into how the Forest Service is conducting the plan revision process. The Agency is making a bad situation worse. Consequently, the TLMP revision will not and cannot resolve this crisis for the following reasons.

The TLMP revision process is designed solely to modify the 1991 draft plan alternatives. The 1991 alternatives were the first revision designed to implement the 1990 Act. The Forest Service is modifying this draft to consider such matters as population viability, cave issues, and ecosystem management. All of these priorities will likely reduce timber volumes from the 1991 alternatives; and from what has been offered to date.

Second, the current Forest Service approach to implementing the 1990 act and providing timber volume is to reduce market demand to the capacity of only those mills which remain open. Each time a mill closes, volume has been reduced accordingly. This ensures the continued closure of the Ketchikan and Wrangell sawmills, and precludes building a replacement medium density fiberboard facility for the closed pulpmill in Sitka. In my view, all of this is contrary to Congress' intent in the 1990 TTRA compromise.

Third, on June 30, 1995, Regional Forester Janik made public the 10-year timber sale projection shown on this chart. This was the final straw that broke the camel's back. This schedule shows an annual average volume of 278 million board feet. As this 10-year period mirrors the 10-year planning horizon for TLMP, we can only assume that the Forest Service has already made up its mind to drop the ASQ to 2.5 billion from the current 4.5 billion board feet, essentially reducing volume availability by almost half. This is both unacceptable, and unconscionable given the Agency's arguments that we rely on the TLMP revision process to fix the timber supply crisis.

Fourth, the TLMP scientists have been given an extremely short schedule which provides them insufficient time to collect and analyze data. This converts the TLMP science into off-hand impressions, which will be extremely conservative because of insufficient data. The October 24–26, 1994 meeting notes of the Forest Service's so-called goshawk committee, which have already been the subject of press reports, highlight this problem.

The Senate Energy and Natural Resources Committee conducted two oversight hearings on the management of the Tongass National Forest. The hearings were held in Washington, DC, on May 18; and in Wrangell, AK on June 1. In all, the committee heard from 55 witnesses, with an additional 100 or so statements for the record. The Clinton administration was well represented at each hearing.

The Alaska Delegation has also been involved in a prolonged discussion with the administration—including an exchange of detailed correspondence with Secretary Glickman—in an attempt to fashion an administrative solution to the timber supply crisis on the Tongass National Forest.

Regrettably, that does not now seem possible. The administration appears to be fixed on a path that can only increase job losses in the region. The administration seems to be wedded to a Tongass land management plan revision process that cannot solve the problem. So, where does this leave us?

In short, if we continue on our current path, we will most certainly not provide for sufficient volume to maintain jobs at the 1990 level. The compromise I envisioned in enacting the 1990 Tongass Timber Reform Act will not be realized.

The Southeast Alaska Jobs and Communities Protection Act which I am introducing today addresses these problems by restoring the 1990 compromise, and by providing the Forest Service with the ability which it says it lacks to reconcile the provisions of the 1990 Tongass Timber Reform Act and the more general public land and environmental statutes. The organizing principle behind my proposal is the protection of jobs—the number of jobs that existed in 1990, and that we sought to protect with the 1990 act. The mechanism to accomplish this goal is very simple. Whenever the Forest Service feels it has to reduce the timber base on the Tongass in a fashion that will reduce jobs, the Agency must revisit the land set-asides in the 1990 act and replace the loss of timber base with enough lands to maintain the jobs.

By focusing on jobs, and providing the Forest Service with flexibility that it says it does not now have, the Southeast Alaska Jobs and Communities Protection Act avoids tying the Agency's hands, or setting a mandated harvest level. Indeed, provisions in the bill requiring additional primary processing and encouraging value added manufacturing ensure that we get the maximum employment potential out of each stick of timber.

Mr. President, I will not review each provision of the bill. Rather, I will submit a section-by-section summary for the record. Suffice it to say that the bill incorporates suggestions from all sides included in the 155 or more pieces of testimony received at our oversight hearings.

In the same spirit as the 1990 act and today's proposal were drafted, I now invite all interested parties to offer in their constructive suggestions. I will schedule hearings on the measure, and hope to work closely with the administration and Senator JOHNSTON in the same kind of extraordinary cooperation that was the hallmark of the 1990 effort.

This cooperation is necessary because the status quo has become untenable. Even so, we have heard from some that: First, there is no timber supply problem on the Tongass; second, even if there is, they are not at fault; third, we need many more hearings before we do anything; and fourth, we need to sit back and allow the Forest Service to make the 1990 act work.

The general pattern of these arguments is not unfamiliar to me. Change a few words, and you could be summarizing the timber industry's arguments prior to 1990 in defending the status quo embodied in the 1980 act. In the late 1980's the Forest Service was slow to acknowledge that there was a problem, and then grudgingly worked with the Congress toward a solution. They are in a similar posture today. Also, as was the case in the late 1980's, middle ground interests like the Southeast Conference went beyond the posturing and the rhetoric to help isolate the problems and identify solutions. That is also the approach that the Southeast Conference took at our oversight hearings. Many of their suggestions are included in today's proposal.

By contrast, polemical broadsides and ad hominem attacks are neither helpful in solving this problem, nor an effective smokescreen to distract people who are losing their jobs. It is true that today both sides in the Tongass debate are in court challenging the implementation of the 1990 compromise. They both have lawyers, plenty of them. Forest conflicts usually increase the number of lawyers, even as they decrease the amount of timber. If lawyers were as useful as 2x4's maybe we wouldn't have such a problem today.

But it is time for everyone concerned to get beyond denial. The current situation will be improved neither by the TLMP revision, nor by more lawsuits. We will act because we have no choice. Unless we do, we will: First, lose the opportunity to reopen the Wrangell and Ketchikan sawmills; second, forego by default the possibility of establishing a medium density fiberboard mill in Sitka; third, discourage entrepreneurs who are presently considering the construction of a sawmill and kiln-dry facilities in Sitka; and fourth, suffer additional production curtailments at the Ketchikan pulp mill, and the closure of additional sawmills.

We are eager to receive—and are already receiving from thoughtful people—suggestions on how to proceed. Our objective is simply this: restore the compromise, and the jobs inherent in it, in the 1990 TTRA.

Mr. President, I ask unanimous consent that additional material be printed in the RECORD.

There being no objection, the material was ordered printed in the RECORD, as follows:

SUMMARY OF THE PROVISIONS OF THE SOUTHEAST ALASKA JOBS AND COMMUNITIES PROTECTION ACT OF 1995

Section 1. The objective of this section is to make the changes necessary in the Tongass Land management Planning (TLMP) process so that sufficient volume can be made available from the Tongass National Forest to provide approximately 2400 direct timber jobs, which is the number of such jobs which existed when the bill passed in 1990.

All Tongass lands are to be considered in the TLMP process except those designated as Wilderness under Sections 503 and 703 of the Alaska National Interest Lands Conservation Act (ANILCA)(702(a)(1)).

For the Secretary to reduce the volume of timber available for harvesting from that needed to protect jobs at the 1990 level, the Secretary will have to do two things: (a) provide a jobs impact statement showing that the reduction of the jobs from the 1990 level and the adverse impacts on timber dependent communities is outweighed by the environmental gains to be achieved by the reductions; and (b) provide equivalent substitute timber volume. (709(a)(1) and 709(a)(2))

Timber cannot be withdrawn to maintain plant or animal diversity unless the Secretary makes a written determination that such action is necessary to prevent the species from becoming threatened or endangered. Even then, a jobs impact versus an environmental benefit review must be obtained and substitute timber must be provided. In addition, the State of Alaska must be consulted about controlling predators which prey upon the species of concern, and all nonsubsistence uses of the species must be terminated. (709(a)(3))

The Secretary is directed to manage second growth timber stands to maximize future timber production, and to make second growth timber suitable for deer habitat and for other species. (709(a)(4))

Subsection (b) of Subsection 1 states that the timber substitution process required under subsection (a) will be done without the need for a National Environmental Policy Act of 1969 (NEPA) review. (709(b))

Subsection (c) makes it clear that a revised TLMP plan, meeting the requirements of this section, shall be found to be consistent with other laws pertaining to the National Forests. This Act takes precedence over less specific legislation.

Section 2. The objective of this section is to require the Forest Service to meet market demand with a supply of mid-market timber.

Subsection (a) requires that the Secretary meet market demand with a supply of mid-market timber on an annual and planning cycle basis. (705(a))

Subsection (b) requires the Secretary to monitor the timber supply and demand from the Tongass National Forest, and provide a report to the public on January 1 of each year, providing that information and explaining how the Secretary intends to reconcile market demand with other requirements of law. (705(b))

Subsection (c) requires that the Secretary's determination required by subsection (b) is utilized in setting timber sale volume and offering levels for the Tongass. The explanation shall be contained in the President's budget for that fiscal year. (705(c))

Subsection (d) prohibits the reduction of timber volumes available for harvest, unless the Secretary determines that the timber job reductions and resulting adverse impacts upon timber dependent communities are outweighed by the environmental benefits to be achieved. Where such a reduction occurs, equivalent volume of lands economically suitable for timber production must be substituted. (705(d))

Subsection (e) describes how such substitution is to take place. (705(e))

Subsection (f) requires regulations be promulgated to implement the provisions of Section 2, within 60-days of enactment of the section. (705(f))

Subsection (g) provides that a court shall not find that a sale or offering of timber on the Tongass National Forest which complies with this section is inconsistent with other laws providing for forest management. This Act takes precedence over less specific legislation.

Section 3. Section 3 amends Section 102 of the Tongass Timber Reform Act to make Section 6(k) of the National Forest Management Act (NFMA) consistent with the provisions of this Act. Moreover, Section 6(k) cannot be used to delete volume from the Tongass unless substitute timber is provided.

Section 4. The objective of Section 4 is to require the Secretary to provide an annual volume of 80 million board feet of timber to small business concerns and to better tailor timber sales to the needs of small businesses.

Section 5. Section 5 provides a direct cause of action to persons and communities adversely affected by the Secretary's actions under this Act. Sixty days notice to the Secretary is required as a predicate to filing such a suit. This provision is necessary as a counterweight to the environmental organization's ability to stop or enjoin timber sales under the National Environmental Policy Act of 1969.

Section 6. This section requires the Secretary to request annual appropriations sufficient to provide at least a three-year supply of unharvested timber and requires the Secretary to provide reports to the public concerning that timber.

Section 7. The objective of Section 7 is to allow a purchaser of Tongass National Forest timber to lay out timber sales pursuant to the Record of Decision signed by the Contracting Officer following completion of a NEPA analysis for that sale. The Forest Service has the authority to modify or approve such a layout.

Section 8. Section 8 repeals Section 301(c)(2) of the Tongass Timber Reform Act, which requires proportionality for timber offerings made pursuant to the long term contracts. Now that there is only one pulp mill left, and Classes 5, 6 and 7 timber are being considered together, this provision is unnecessary. The technical aspects of implementing such a provision have been enjoined on several occasions. The new Forest Service method for determining proportionality in response to such lawsuits is a process that costs $200,000 and an entire operating season to implement. In short, the section is repealed because the environmental benefits are far outweighed by the costs associated with the provision.

Section 9. The objective of Section 9 is to direct the Secretary to reschedule the timber sales and offerings which were deferred because of the June 1994 habitat conservation areas (HCAs) and goshawk reservation area withdrawals by the Forest Service.

Section 10. Section 10 amends Section 1326(b) of ANILCA to add a definition of the term ''withdrawal'' as used in that section. Section 1326(a) precludes a withdrawal of more than 5,000 acres of public land in the aggregate unless such a withdrawal is made by the President and concurred by Congress. The new definition of ''withdrawal'' includes temporary reservations or deferrals. This is to avoid situations as those that occurred with the HCAs and goshawk reservation areas in June 1994 when one-third of the commercial forest land was withdrawn and remains withdrawn because the Agency contends that it does not constitute a land withdrawal, as that term is currently defined in ANILCA.

Section 11. This section prohibits the export of all sawlogs, pulp logs, utility logs and chips (based on a 90% test). It also permits the State of Alaska to decide whether or not to allow the export of timber from timber sales on state lands.

Section 12. Section 12 directs the Secretary of Agriculture to study the prospects for encouraging value added manufacturing utilizing Tongass National Forest timber resources.

Section 13. Section 13 defines terms used in the bill.

By Mr. HOLLINGS:

S. 1055. A bill to amend title 49, United States Code, to eliminate the requirement for preemployment alcohol testing in the mass transit, railroad, motor carrier, and aviation industries, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE OMNIBUS TRANSPORTATION EMPLOYEE TESTING ACT AMENDMENTS OF 1995

Mr. HOLLINGS. Mr. President, today I am introducing legislation that would clarify the Department of Transportation's authority with respect to preemployment alcohol testing of our transportation workers. The bill seeks to make the program originally instituted through the Omnibus Transportation Employee Testing Act of 1991 more effective by eliminating the requirement for preemployment alcohol testing, and making the test permissive instead. Mothers Against Drunk Driving [MADD], which was very involved in the original bill, recently said that the mandatory pre-employment testing of all applicants ''regardless of their other qualifications may be unduly burdensome. It does not seem to make much sense to require that an applicant be tested who did not have the qualifications for the job and who was not going to be offered a position.'' I agree with MADD, and so does Secretary Peña, who has asked that I sponsor this clarifying legislation. The legislation, if enacted, could save the affected industries about $30 million. It is an effort to streamline the Department's regulations and make them more reasonable, while not changing in any way our commitment to eliminating the use and abuse of alcohol and drugs.

From 1987 until 1991, I fought to require drug and alcohol testing of our transportation system employees. The Commerce Committee reported numerous bills in an effort to improve safety after the tragic rail accident at Chase, MD, in which 16 people were killed. The Omnibus Transportation Employee Testing Act was considered and passed by this body 13 times before we were able to make it the law of the land as part of Public Law 102–143, the Department of Transportation and Related Agencies Appropriations Act, 1992.

The act mandated drug and alcohol testing of safety-sensitive employees in the aviation, rail, truck, and bus sectors. The act was designed to prevent needless and senseless accidents caused by those individuals who are irresponsibly using and abusing drugs and alcohol while operating our transportation system. I had heard too much testimony, read too many articles, and seen too many reports of accidents where our citizens were put at risk, and injured or killed, because of the foolish actions of some. I said when the bill was passed that the vast majority of transportation sector workers are highly dedicated professionals that do not use drugs or abuse alcohol. Yet, the Act was made necessary to protect workers and travelers from the senseless actions of but a few of their coworkers.

The bill today continues our commitment to the traveling public, in a responsible and reasonable manner.

By Mr. CRAIG (for himself, Mr. SIMPSON, Mr. KEMPTHORNE, Mr. COVERDELL, Mr. GREGG, Mr. NICKLES, Mr. LOTT, Mr. KYL, Mr. GRAMS, and Mr. FAIRCLOTH):

S. 1056. A bill to prohibit certain exempt organizations from receiving Federal funding; to the Committee on Governmental Affairs.

THE FEDERAL ADVOCACY REFORM ACT OF 1995

Mr. CRAIG. Mr. President, I am proud to join today with my friend, the senior Senator from Wyoming, ALAN SIMPSON, and several other colleagues, in introducing the Federal Advocacy Reform Act of 1995. In reality, this bill is a Taxpayers' declaration of independence from the special interests.

This is not an issue of left-versus-right: It's about principles that apply across the board:

Public money should be spent on the public interest, and not on the political agendas of special interests. The Federal Government should not give special interests money to pay for lobbying for more money, or for political advocacy. Our effort is about ensuring Government integrity and responsible stewardship of taxpayer dollars. Taxpayers should not be compelled to fund special interest lobbying that is against their interests.

Many groups who claim to speak for grass roots members or large groups of Americans actually use Federal dollars inappropriately to amplify the voices of a few.

Next week, the Senate is supposed to take up gift and lobbying reform bills. People are correctly focused on lobbyists' gifts to legislators; but we also

need to worry about the Government's gifts to lobbyists. Senator SIMPSON and I plan to pursue an amendment like today's bill at that time, next week, when the Senate considers lobbying reform. Mr. President, our bill is real lobbying reform. It will protect the taxpayers' pocketbooks from the abuse that has gone on too long for the benefit of narrow, special interests.

Today, in the House of Representatives, the Appropriations Committee was scheduled to consider an amendment on this same general topic, written by Congressmen ERNIE ISTOOK, DAVE MCINTOSH, and BOB EHRLICH. Although our specific approaches may differ, our goals are the same. I commend their work and look forward to watching both bodies progress in our consideration of this issue.

By Mr. COHEN (for himself, Mr. D'AMATO. Mr. BOND, Mr. FAIRCLOTH, and Mr. MACK):

S. 1057. A bill to amend section 1956 of title 18, United States Code to include equity skimming as a predicate offense, to amend section 1516 of title 18, United States Code to curtail delays in the performance of audits, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EQUITY SKIMMING LEGISLATION

Mr. COHEN. Mr. President, I reintroduce legislation to help the Department of Housing and Urban Development deal with the fraudulent practice of equity skimming.

As the chairman of the Governmental Affairs Subcommittee on Oversight, I have investigated a disturbing number of instances of fraud.

Over the past 2 years, I have been looking at the Department of Housing and Urban Development's [HUD] subsidy and mortgage insurance programs. This investigation has focused on an outrageous practice know as equity skimming.

Equity skimming is the term used to describe a particular type of housing fraud. It occurs when an owner of a HUD-insured project takes money intended to be used to pay the mortgage and provide maintenance and upkeep of the project and diverts it for his or her own use. This diversion of funds often causes the owner to default on their mortgage, forcing HUD—which guaranteed the loans—to pay the private lender the balance of the mortgage. At this point, HUD assumes the mortgage and the owner is required to make mortgage payments to HUD. Regrettably, however, the owner often continues to divert funds for personal use rather than meet mortgage and other expenses. As a result, these projects often fall into disrepair, forcing the tenants to endure intolerable living conditions.

The term ''equity skimming'' is somewhat of a misnomer in that the actual equity that the owner invests in the project is relatively small compared to the amount skimmed by the owner.

The HUD IG estimates that equity skimming has cost taxpayers approximately $6 billion to date. HUD has approximately 20,000 total projects in its insured mortgage portfolio, totaling over $40 billion. HUD holds another $10 billion in mortgages already in default. An additional $10 billion worth of HUD-insured mortgages are estimated to be at risk of default and in fiscal year 1993 alone HUD paid $965 million in multifamily housing mortgage insurance claims to private lenders. HUD's IG believes that a significant amount of the defaults are a result of equity skimming.

The tragedy of this fraud goes beyond the waste of taxpayer dollars. As a result of equity skimming, tenants have been forced to live in horrible conditions because needed repairs go unattended to. At the same time, the owners of these projects live the high life while HUD is stuck with the cost of insuring the mortgage and rehabilitating the deteriorated project.

Let me give a couple of examples of how this shoddy practice has worked.

In upstate New York, partners in a nursing home claimed to be broke and failed to make payments on a $5.1 million HUD-insured mortgage. While they were defaulting on the mortgage and sticking the taxpayers with the bill, the partners used various guises to divert some $500,000 to personal use and paid themselves another $1.7 million in fees for unverified services. While these partners were lining their own pockets, nursing home residents were going without appropriate care.

Another case of equity skimming involved a company in Texas, which managed approximately 86 HUD insured and/or subsidized multifamily projects. Results of a HUD IG audit revealed that $19.6 million of the expenses were either ineligible or questionable because of insufficient support or evidence; The management company inadequately documented $1.2 million in maintenance expenses and lacked documentation for some $5.6 million in contracting expenses. The management company also diverted $500,000 in project funds. The projects deteriorated at the expense of HUD, the taxpayers and the tenants who lived in seriously substandard housing. Due to the management company's lack of cooperation with HUD's auditors, HUD was unable to identify all the diversions and unsupported expenses.

In yet another case of equity skimming, the owner of four projects in Tennessee, diverted some $4.7 million for personal benefit after defaulting on the HUD-insured mortgages. The owner also diverted almost $800,000 to his wife rather than pay the mortgage. The owner also used another $1 million to pay another loan and diverted $1.2 million to his other companies.

Because of improper diversion of project funds, the condition of a housing project in Kansas deteriorated leaving the tenants, who were receiving Federal rent subsidies, living in deplorable conditions. Apartments were roach infested, ceilings were falling down, and doors and windows provided neither security nor protection from the weather. The cost to rehabilitate the project came to an estimated $1.4 million on a property worth $1.8 million.

Two other cases of equity skimming in Minnesota cost the Government almost $600,000. In one case, two partners collected rent and Government subsidies while failing to make full mortgage payments on their federally insured mortgages. The total cost to the taxpayers in this case was about $425,000. In the other case, two owners of five subsidized buildings collected more than $173,000 in rent while neglecting to make mortgage payments.

HUD is taking positive steps to crack down on the owners engaged in equity skimming. HUD is working to prevent the diversions from happening in the first place but, if this fails, HUD intends to step up its efforts to recover the diverted moneys. My legislation will give HUD some much needed tools to help curb the problem of equity skimming.

My legislation has three parts. The first part would allow equity skimming to fall under provisions of the Federal money laundering statute. Under current law, when the Federal Government sues project owners who steal or misappropriate money from federally insured housing projects, owners are able to protect their ill-gotten gains by transferring these assets to other individuals or parties during the lengthy litigation process. Making equity skimming a violation of the Federal money laundering statute will allow the Government to seize the assets.

The second part would make HUD insured mortgage programs subject to the statute which makes it unlawful to obstruct Federal auditors. Unfortunately, there is currently some question as to whether this existing statute applies to owners who receive HUD-insured mortgages because the owners receive no direct Federal payment. Because the mortgages are insured and no money goes directly to the owner from the Government, owners are able to use the ambiguity in the law to stonewall Federal auditors. My bill would make clear that owners of housing projects financed with government-insured mortgages are subject to the audit obstruction statute. Perpetrators of equity skimming would no longer be able to hide their books from Federal auditors.

The third provision in the bill requires HUD to provide in its agreements with borrowers that HUD could recover from project owners any funds lost by HUD as a result of equity skimming. Under this new provision, if an owner is convicted of equity skimming, the owner will be responsible for HUD's entire loss. Currently, HUD is unable to recover any funds it used to pay off the balance of the defaulted mortgage even if the borrowers are found guilty of equity skimming.

Mr. President, this legislation should go far in slamming the door on fraudulent owners and managers who take advantage of both taxpayers and tenants to line their own pockets.

I ask unanimous consent that a letter from the inspector general at HUD, Susan Gaffney, in support of this legislation, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1057

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the Federal Government makes available mortgage insurance and other assistance to encourage investors and lending institutions to provide housing to low-income individuals and families;

(2) in general, this current system functions well;

(3) some unscrupulous owners of federally assisted housing, however, have diverted Federal housing subsidies and other funds to personal and other improper uses, while failing to make payments on their insured mortgages or maintain the assisted housing;

(4) this practice of diverting funds, known as equity skimming, has cost the Nation's taxpayers an estimated $6,000,000,000; and

(5) current law is inadequate to deter or prevent the practice of equity skimming.

SEC. 2. INCLUSION OF EQUITY SKIMMING AS A LAUNDERING OFFENSE.

Seciton 1956(c)(7)(D) of title 18, United States Code, is amended by inserting ''sanction 254 of the National Housing Act (relating to equity skimming),'' before ''or any felony violation of the Foreign Corrupt Practices Act''.

SEC. 3. OBSTRUCTION OF FEDERAL AUDIT.

Section 1516(a) of title 18, United States Code, is amended by inserting ''or relating to any property that is security for a mortgage that is insured, guaranteed, acquired, or held by the Secretary of Housing and Urban Development pursuant to any provision of law described in section 254(a) of the National Housing Act,'' after ''under a contract or subcontract,''.

SEC. 4. EFFECT OF EQUITY SKIMMING ON MORTGAGE INSURANCE.

Seciton 254 of the National Housing Act (12 U.S.C. 1715z–19) is amended—

(1) by striking ''Whoever'' and inserting the following:

''(a) IN GENERAL.—Whoever''; and

(2) by adding at the end the following new subsection:

''(b) EFFECT OF VIOLATION.—Each contract for insurance under any provision of law described in subsection (a) shall provide that if an owner, agent, manager, or other person who is otherwise in custody, control, or possession of any property described in subsection (a) is convicted of a violation of that subsection, the Secretary may recover from such owner, agent, manager, or other person an amount equal to the sum of—

''(1) any benefit of insurance conferred on the mortgagee by the Secretary with respect to such property; and

''(2) any loss incurred by the Secretary in connection with such property; if the Secretary determines that the violation contributed to such conferred benefit or incurred loss. Any recovery under this subsection shall be in addition to any fine, imprisonment, or other penalty imposed under subsection (a).''.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
Washington, DC, February 16, 1995.

Hon. WILLIAM S. COHEN,
Chairman, Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing you to express my appreciation and support of your efforts to address equity skimming in HUD multifamily projects by promoting legislation for more effective enforcement authority.

As part of Operation Safe Home, HUD has initiated an aggressive proactive effort to pursue affirmative litigation against owners of multifamily housing projects whose owners misuse project operating funds. The goal of Operation Safe Home is to stop major abuses in HUD programs that result in unacceptable living conditions for the millions of needy people who look to HUD for help. As you know, equity skimming has done much to undermine HUD's ability to provide quality affordable housing and has significantly impacted the cost of doing so.

A primary objective of the Equity Skimming aspect of Operation Safe Home is to create an enforcement program that provides an effective deterrent and recovery mechanism for the misuse of income and assets at projects having HUD insured or Secretary-held mortgages.

One of our goals is to initiate changes to statutes, HUD regulations, and contracts with HUD program participants that will facilitate the application of enforcement actions. Your efforts to change statutes to make equity skimming a money laundering offense, hold owners personally liable for related losses incurred by the Federal Government, and to deter the obstruction of Federal audits, are significant. Such statutes will enable us to better ensure compliance with the requirements for the operation of assisted multifamily housing in a decent and safe manner for all of those who rely upon HUD for housing.

If I can be of any further support or assistance to your efforts for addressing these important enforcement issues, please let me know.

Sincerely,

SUSAN GAFFNEY,
Inspector General.

By Mr. WELLSTONE (for himself, Mr. SPECTER, Mr. HATFIELD, Mr. JEFFORDS, Mr. HARKIN, Mr. MOYNIHAN, and Mr. KENNEDY):

S. 1058. A bill to provide a comprehensive program of support for victims of torture; to the Committee on the Judiciary.

THE COMPREHENSIVE TORTURE VICTIMS RELIEF ACT OF 1995

● Mr. WELLSTONE. Mr. President, I introduce the Comprehensive Torture Victims Relief Act of 1995. I am joined today by Senators SPECTOR, HATFIELD, JEFFORDS, HARKIN, MOYNIHAN, and KENNEDY, as original cosponsors of this measure. This bipartisan legislation outlines a comprehensive strategy for providing critical assistance to refugees, asylees, and parolees who are torture survivors in the United States and abroad. It is an important blueprint for an overall approach to the serious problem of torture. This legislation provides a focus and a framework for a newly reenergized debate about where torture survivors, and our response to the practice of torture by other countries, fit within our foreign policy priorities.

The bill authorizes funds for torture rehabilitation programs, both here and abroad. It also increases the U.S. contribution to the U.N. Voluntary Fund for Torture Victims. It is similar to legislation introduced toward the end of last year by myself, and Senator Durenburger and HARKIN. The bill is being supported by over 65 organizations concerned with human rights issues. This legislation is also similar to H.R. 1416, introduced earlier this year in the other body by Representative CHRISTOPHER SMITH of New Jersey and cosponsored by a bipartisan group of ideologically diverse Representatives ranging from Representative HYDE to Representative FRANK, and including Representatives LANTOS, WOLF, ROHRABACHER, YATES, PELOSI, SABO, MCKINNEY, and VENTO. With such bipartisan support, I hope that Congress will move quickly to enact this important legislation.

While the huge cuts in foreign aid programs that have been proposed in Congress will make even a modest expansion of torture treatment assistance doubly difficult, I want to do everything I can to see the key provisions of this bill enacted into law. I hope that enactment of this legislation will be a watershed in the movement to garner broader public and private support, both here and abroad, for much-needed torture rehabilitation programs.

Specifically, the Comprehensive Torture Victims Relief Act would authorize funds for domestic refugee assistance centers as well as bilateral assistance to torture treatment centers worldwide. It would also change our immigration laws to give a priority to torture survivors; provide for specialized training for U.S. consular personnel who deal with torture survivors; and commission a comprehensive study by the National Institutes of Health on the numbers and geographical distribution of refugees and asylees who are torture survivors now in the United States. That study should help refine our goals and then help us to target those people in need of rehabilitation assistance.

Finally, the bill would allow an increase in the U.S. contribution to the U.N. Voluntary Fund for Torture Victims, which funds and supports rehabilitation programs worldwide. In 1994, this fund contributed over $3.7 million to 106 projects in 60 countries. I believe that continuing to expand the U.S. contribution to the fund is necessary as a show of genuine U.S. commitment to human rights, and I will continue to push until these programs receive the funding they need and deserve.

This bill would not cause an increase in the Federal budget deficit because spending would be reallocated from among funds already provided for in

Federal law. For example, as a demonstration of our commitment, the United States could reallocate funds to these rehabilitation programs from military assistance to foreign governments which torture their own people, or condone it within their borders. Reducing military aid to countries which practice torture or ignore its existence has a certain symmetry, and would be another way of signifying our opposition to torture.

Mr. President, the practice of torture is one of the most serious human rights issues of our time. Governmental torture, and torture being condoned by officials of governments, occurs in at least 70 countries today. We have seen this most horribly demonstrated recently in Bosnia, where torture, rape, and other atrocities have become commonplace. We can and must do more to stop torture, and to treat its victims. Treating torture victims must be a much more central focus of our efforts as we work to promote human rights worldwide.

Without active programs of healing and recovery, torture survivors often suffer continued physical pain, depression and anxiety, intense and incessant nightmares, guilt and self-loathing. They often report an inability to concentrate or remember. The severity of the trauma makes it difficult to hold down a job, study for a new profession, or acquire other skills needed for successful adjustment into society.

Providing treatment for torture survivors is one of the best ways we can show our concern for human rights around the world. The United States and the international community have been increasingly aware of the need to prevent human rights abuses and to punish the perpetrators when abuses take place. But too often we have failed to address the needs of the victims. We pay little if any attention to the treatment of victims after their rights have been violated.

The commitment to protect human rights is one shared by many around the world. In 1984, the United Nation approved the United Nations' Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment. The U.S. Senate ratified it in April 1994. Although Congress has taken some steps to implement parts of the convention, we have not yet taken action to provide sufficient rehabilitation services in the spirit of the language of article 14 of the convention.

Certainly, there exists a great need for the rehabilitation programs supported by this legislation. The generally accepted estimate of the number of torture survivors, including refugees, asylees, and parolees in the United States, hovers around 200,000—although some experts in the field believe it may be closer to 400,000. In my State of Minnesota alone, there are estimated to be over 8,000 survivors of torture. The Federal Government's response to this problem so far has been minimal.

In Minnesota, we began to think about the problem of torture, and act on it, over 10 years ago. The Center for Victims of Torture in Minneapolis is the only fully-staffed torture treatment facility in the country and one of a select few worldwide. They just celebrated their 10th anniversary. The center offers outpatient services which can include medical treatment, psychotherapy and help gaining economic and legal stability. Its advocacy work also helps to inform people about the problem of torture and the lingering effects it has on victims, and ways to combat torture worldwide. The center has treated or provided services to hundreds of people over the last 10 years.

Some of the often shrill public rhetoric these days seems to argue that we, as a nation, can no longer afford to remain engaged with the world, or to assist the poor, the elderly, the feeble, refugees, those seeking asylum—those most in need of aid who are right here in our midst. The Center for Victims of Torture stands as a repudiation of that idea. Its mission is to rescue and rehabilitate people who have been crushed by torture, and it has been accomplishing that mission admirably over the last 10 years. It is a light of hope in the lives of those who have for so long seen only darkness, a darkness brought on by the brutal hand of the torturer.

I would like to thank the distinguished human rights leaders who helped craft this bill, including those at the Center for Victims of Torture in Minneapolis and others in the human rights community here in Washington and in Minnesota. Without their energy and skills as advocates for tough U.S. laws which promote respect for internationally recognized human rights worldwide, the cause of human rights here in the United States would be seriously diminished. I salute them today. We must commit ourselves to aiding torture survivors and to building a world in which torture is relegated to the dark past. My hope is that we can help bring about a world in which the need for torture treatment programs becomes obsolete. I urge my colleagues to cosponsor this bill, and I urge its timely passage.

I ask unanimous consent that a partial list of organizations supporting the Comprehensive Torture Victims Relief Act be printed in the RECORD along with a copy of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1058

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Comprehensive Torture Victims Relief Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The American people abhor torture by repressive governments and other parties. The existence of torture creates a climate of fear and international insecurity that affects all people.

(2) Torture is the strategic use of pain to destroy both individuals and society. The effects of torture are long term. Those effects can last a lifetime for the survivors and affect future generations.

(3) By eliminating leadership of their opposition and frightening the general public, repressive governments use torture as a weapon against democracy.

(4) Torture victims remain under physical and psychological threats, especially in communities where the perpetrators are not brought to justice. In many nations, even those who treat torture victims are threatened with reprisals, including torture, for carrying out their ethical duties to provide care. Both the survivors of torture and their treatment providers deserve, and often require, protection from further repression.

(5) A significant number of refugees and asylees entering the United States have been victims of governmental torture. Those claiming asylum deserve prompt consideration of their applications for political asylum to minimize their insecurity and sense of danger. Many torture survivors now live in the United States. They should be provided with the rehabilitation services which would enable them to become productive members of our communities.

(6) The development of a treatment movement for torture survivors has created new opportunities for action by the United States and other nations to oppose state-sponsored and other acts of torture.

(7) There is a need for a comprehensive strategy to protect and support torture victims and their treatment providers together with overall efforts to eliminate torture.

(8) By acting to heal the survivors of torture and protect their families, the United States can help to heal the effects of torture and prevent its use around the world.

(9) The United States has ratified the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, but has not implemented all provisions of the convention.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) IN GENERAL.—Except as otherwise provided, the terms used in this Act have the meaning given such terms in section 101(a) of the Immigration and Nationality Act.

(2) TORTURE.—The term ''torture'' has the meaning given such term in section 2340(1) of title 18, United States Code, and includes the use of rape and other forms of sexual violence by a person acting under the color of law upon another person under his custody or physical control.

SEC. 4. PROHIBITION ON INVOLUNTARY RETURN OF PERSONS FEARING SUBJECTION TO TORTURE.

(a) PROHIBITION.—The United States shall not expel, extradite, or return involuntarily an individual to a country if there is substantial evidence of circumstances that would lead a reasonable person to believe that the individual would fear subjection to torture.

(b) DEFINITION.—For purposes of this section, the term ''to return involuntarily'', in the case of an individual in any locale, means the following:

(1) To return the individual without the individual's consent, whether or not the return is induced by physical force.

(2) To take an action by which it is reasonably foreseeable that the individual will be returned, whether or not the return is induced by physical force.

SEC. 5. IMMIGRATION PROCEDURES FOR TORTURE VICTIMS.

(a) IN GENERAL.—Any alien—

(1) who presents a credible claim of having been subjected to torture in the alien's country of nationality, or, in the case of an alien having no nationality, the country in which the alien last habitually resided, and

(2) who applies for—

(A) refugee status under section 207 of the Immigration and Nationality Act,

(B) asylum under section 208 of that Act, or

(C) withholding of deportation under section 243(h) of that Act,

shall be processed in accordance with this section.

(b) CONSIDERATION OF THE EFFECTS OF TORTURE.—In considering applications for refugee status, asylum, or withholding of deportation made by aliens described in subsection (a), the appropriate officials shall take into account—

(1) the manner in which the effects of torture can affect the applicant's responses in the application and in the interview process or other immigration proceedings, as the case may be;

(2) the difficulties torture victims often have in recounting their suffering under torture; and

(3) the fear victims have of returning to their country of nationality where, even if torture is no longer practiced or the incidence of torture is reduced, their torturers may have gone unpunished and may remain in positions of authority.

(c) EXPEDITED PROCESSING OF REFUGEE ADMISSIONS.—For purposes of section 207(c) of the Immigration and Nationality Act, a refugee who presents a credible claim of having been subjected to torture shall be considered to be a refugee of special humanitarian concern to the United States and shall be accorded priority in selection from the waiting list of such refugees based on compelling humanitarian concerns.

(d) EXPEDITED PROCESSING FOR ASYLUM AND WITHHOLDING OF DEPORTATION.—Upon the request of the alien, the alien's counsel, or a health care professional treating the alien, an asylum officer or special inquiry officer may expedite the scheduling of an asylum interview or an exclusion or deportation proceeding for an alien described in subsection (a), if such officer determines that an undue delay in making a determination regarding asylum or withholding of deportation with respect to the alien would aggravate the physical or psychological effects of torture upon the alien.

(e) PAROLE IN LIEU OF DETENTION.—The finding, upon inspection at a port of entry of the United States, that an alien described in subsection (a) suffers from the effects of torture, such as depressive and anxiety disorders, shall be a strong presumptive basis for a grant of parole, under section 212(d)(5) of the Immigration and Nationality Act, in lieu of detention.

(f) SENSE OF CONGRESS.—It is the sense of Congress that the Attorney General shall allocate resources sufficient to maintain in the Resource Information Center of the Immigration and Naturalization Service information relating to the use of torture in foreign countries.

SEC. 6. SPECIALIZED TRAINING FOR CONSULAR, IMMIGRATION, AND ASYLUM PERSONNEL.

(a) IN GENERAL.—The Attorney General shall provide training for immigration inspectors and examiners, immigration officers, asylum officers, special inquiry officers, and all other relevant officials of the Department of Justice, and the Secretary of State shall provide training for consular officers, with respect to—

(1) the identification of the evidence of torture;

(2) the identification of the surrounding circumstances in which torture is practiced;

(3) the long-term effects of torture upon the person;

(4) the identification of the physical, cognitive, and emotional effects of torture, including depressive and anxiety disorders, and the manner in which these effects can affect the interview or hearing process; and

(5) the manner of interviewing victims of torture so as not to retraumatize them, eliciting the necessary information to document the torture experience, and understanding the difficulties victims often have in recounting their torture experience.

(b) GENDER-RELATED CONSIDERATIONS.—In conducting training under subsection (a)(4) or subsection (a)(5), gender specific training shall be provided on the subject of interacting with women and men who are victims of torture by rape or any other form of sexual violence.

SEC. 7. STUDY AND REPORT ON TORTURE VICTIMS IN THE UNITED STATES.

(a) STUDY.—The National Institutes of Health shall conduct a study with respect to refugees and asylees admitted to the United States since October 1, 1987, who were tortured abroad, for the purpose of identifying—

(1) the estimated number and geographic distribution of such persons;

(2) the needs of such persons for recovery services; and

(3) the availability of such services.

(b) REPORT.—Not later than December 31, 1997, the National Institutes of Health shall submit a report to the Judiciary Committees of the House of Representatives and the Senate setting forth the findings of the study conducted under subsection (a), together with any recommendation for increasing the services available to persons described in subsection (a), including any recommendation for legislation, if necessary.

SEC. 8. DOMESTIC TREATMENT CENTERS.

(a) AMENDMENT OF THE IMMIGRATION AND NATIONALITY ACT.—Section 412 of the Immigration and Nationality Act (8 U.S.C. 1522) is amended by adding at the end the following new subsection:

''(g) ASSISTANCE FOR TREATMENT OF TORTURE VICTIMS.—(1) The Secretary may provide grants to programs in the United States to cover the cost of the following services:

''(A) Services for the rehabilitation of victims of torture, including treatment of the physical and psychological effects of torture.

''(B) Social services for victims of torture.

''(C) Research and training for health care providers outside of treatment centers or programs for the purpose of enabling such providers to provide the services described in subparagraph (A).

''(2) For purposes of this subsection, the term 'torture' has the meaning given to such term in section 3 of the Comprehensive Torture Victims Relief Act.''.

(b) FUNDING.—Of the amounts authorized to be appropriated for the Department of Health and Human Services for fiscal year 1996, there is authorized to be appropriated such sums as may be necessary to carry out section 412(g) of that Act (relating to assistance for domestic centers and programs for the treatment of victims of torture), as added by subsection (a). Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 9. FOREIGN TREATMENT CENTERS.

(a) AMENDMENTS OF THE FOREIGN ASSISTANCE ACT OF 1961.—Part I of the Foreign Assistance Act of 1961 is amended by adding at the end of chapter 1 the following new section:

''SEC. 129. ASSISTANCE FOR VICTIMS OF TORTURE.—(a) The President is authorized to provide assistance for the rehabilitation of victims of torture.

''(b) Such assistance shall be provided in the form of grants to treatment centers and programs in foreign countries which are carrying out projects or activities specifically designed to treat victims of torture for the physical and psychological effect of the torture.

''(c) Such assistance shall be available—

''(1) for direct services to victims of torture; and

''(2) to provide research and training to health care providers outside of treatment centers or programs for the purpose of enabling such providers to provide the services described in paragraph (1).

''(d) For purposes of this section, the term 'torture' has the meaning given such term in section 3 of the Comprehensive Torture Victims Relief Act.''.

(b) FUNDING.—Of the total amount authorized to be appropriated in fiscal years 1996 and 1997 pursuant to chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 and pursuant to section 31 of the Arms Export Control Act, there is authorized to be appropriated such sums as may be necessary to carry out section 129 of the Foreign Assistance Act, as added by subsection (a). Amounts appropriated pursuant to this subsection shall remain available until expended.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

SEC. 10. MULTILATERAL ASSISTANCE.

(a) FUNDING.—Of the amounts authorized to be appropriated in fiscal years 1996 and 1997 pursuant to chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 and pursuant to section 31 of the Arms Export Control Act, there are authorized to be appropriated to the United Nations Voluntary Fund for Victims of Torture (in this section referred to as the ''Fund'') the following amounts for the following fiscal years:

(1) For fiscal year 1996, $4,000,000.

(2) For fiscal year 1997, $5,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall remain available until expended.

(c) SENSE OF CONGRESS.—It is the sense of the Congress that the President, acting through the United States Permanent Representative to the United Nations, should—

(1) request the Fund—

(A) to find new ways to support and protect treatment centers and programs that are carrying out rehabilitative services for victims of torture; and

(B) to encourage the development of new such centers and programs;

(2) use the voice and vote of the United States to support the work of the Special Rapporteur on Torture and the Committee Against Torture established under the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

(3) use the voice and vote of the United States to establish a country rapporteur or similar procedural mechanism to investigate human rights violations in a country if either the Special Rapporteur or the Committee Against Torture indicates that a systematic practice of torture is prevalent in that country.

PARTIAL LIST OF ORGANIZATIONS SUPPORTING THE COMPREHENSIVE TORTURE VICTIMS RELIEF ACT

Advocates for Survivors of Trauma and Torture.

American-Arab Anti-Discrimination Committee.

American Association for the Advancement of Science.
American Friends Service Committee.
American Immigration Lawyers Association.
American Psychological Association.
Amnesty International U.S.A.
Amigos de los Sobrevivientes.
Bread for the World.
Catholic Foreign Mission Society of America, Maryknoll Fathers and Brothers.
Center for Development of International Law.
Center for Human Rights Legal Action.
Center for International Policy.
Center for the Victims of Torture.
Church World Service Immigration and Refugee Program.
Coalition ''Missing'' (U.S. Citizens Murdered, Tortured, Assaulted or Missing in Guatemala)
Columbian Fathers Justice and Peace Office.
Commission on International Human Rights, International Peace Research Association.
Conference of the Major Superiors of Men.
Doctors of the World, U.S.A.
Episcopal Migration Ministries.
Ethiopian Community Development Council, Inc.
Francois-Xavier Bagnoud Center for Health and Human Rights, Harvard School of Public Health.
Friends Committee on National Legislation.
Fund for New Priorities in America.
General Board of Church and Society, The United Methodist Church.
Guatemala Human Rights Commission—U.S.A.
Human Rights Advocates, San Francisco.
Human Rights Clinic, Montefiore Medical Center.
Human Rights Watch.
Immigration Refugee Service of America.
Indian Law Resource Center.
Institute for Policy Studies.
Institute for the Study of Psycho-Political Trauma.
International Educational Development, Inc.
International Human Rights Law Group.
International Labor Rights Fund.
International Rescue Committee.
Kentucky Interreligious Task Force on Central America.
Lutheran Immigration and Refugee Service.
Lutheran Office for Government Affairs, Evangelical Lutheran Church in America.
MADRE, Inc., New York, NY.
Marjorie Kovler Center, Chicago.
Mennonite Central Committee.
Minority Rights Group, Washington, D.C.
National Spiritual Assembly of the Baha' is of the U.S.
Network, A National Catholic Social Justice Lobby
Office for Church and Society, The United Church of Christ (U.S.A.)
Physicians for Human Rights
Physicians for Social Responsibility
Program for Torture Victims, Venice, CA
Robert F. Kennedy Memorial Center for Human Rights
Southeast Asia Resource Action Center
Survivors International, San Francisco
Unitarian Universalist Association
United Church Board for World Ministries, The United Church of Christ (U.S.A.)
United Nations Association of San Francisco
United States Catholic Conference
United States Committee for Refugees
Veterans for Peace
Washington Office on Africa
Washington Office on Latin America
World Federalist Association
Xanthos, Inc., Almeda, California.●

By Mr. CRAIG:

S. 1059. A bill to amend section 1864 of title 18, United States Code, relating to tree spiking, to add avoidance costs as a punishable result; to the Committee on the Judiciary.

TREE SPIKING LEGISLATION

Mr. CRAIG. Mr. President, I regret that I must come to the floor today to introduce this legislation. But some extreme preservation groups apparently know no bounds in their zealotry to stop timber harvest on national forests. They leave me no choice but to put a stop to their insane acts.

A preservation group in Idaho has just announced that they have spiked trees scheduled to be cut in an active timber sale. This is the last, desperate act of radicals who did not get their way with the Forest Service or in court. To gain their objectives, they are willing to jeopardize the lives of men and women working in the woods and in the sawmill. The possibility of a head rig exploding as it hits a spike bothers them not at all.

There should be no controversy over this timber sale. The U.S. Congress specifically guaranteed that this particular Cove-Mallard area of the Nez Perce National Forest was to be used for multiple-use purposes. On that basis, the Forest Service completed their forest plan and the appropriate NEPA documents for timber harvest. The radicals did not like that, so they appealed the NEPA decision. Their appeal was denied.

The radicals did not like being denied so they filed suit claiming violations of NEPA and the National Forest Management Act. The court disagreed. It found that the Forest Service had properly applied all the environmental laws in awarding the timber sale contracts in Cove-Mallard. So, logging began in Cove-Mallard.

Most of all, the radicals do not like logging, so they have taken this last, desperate act to force their wishes on all the rest of us. They have spiked trees in the Cove-Mallard timber sale.

And they brag about it. They brag that they have used ceramic spikes which cannot be found by metal detectors. They brag they have spiked the trees far up the stem of the tree so as to hide them and assure they cannot be disposed of easily when found.

This tree-spiking incident just proves that some preservation groups will not take no for an answer—even when that ''no'' comes from the Congress and from the courts. They feel their mission is beyond the law.

Well, it is not. My legislation will exact a heavy price from those who break the law. It will amend Public Law 100–690 to add strong penalties for the disruption, expense, and damage of tree spiking.

I hope my colleagues will join me in condemning this outrageous act. I ask their support to move this legislation very quickly as a signal that Congress will simply not tolerate this kind of blackmail.

By Mr. JEFFORDS (for himself and Mr. NUNN):

S. 1062. A bill to amend the Employee Retirement Income Security Act of 1974 to increase the purchasing power of individuals and employers, to protect employees whose health benefits are provided through multiple employer welfare arrangements, to provide increased security of health care benefits, and for other purposes; to the Committee on Labor and Human Resources.

THE EMPLOYER GROUP PURCHASING REFORM ACT OF 1995

Mr. JEFFORDS. Mr. President, I introduce the Employer Group Purchasing Reform Act of 1995 for myself and my Democratic colleague Senator NUNN. Our bill amends the Employee Retirement Income Security Act of 1974 (ERISA) in three significant ways. First, we provide increased protection for approximately 46 million employees in self-funded employee benefit health plans. Second, we increase the purchasing power and affordability of health insurance for small employers by putting into place the States ability to crack down on the fraudulent and abusive practices used by unscrupulous multiple employer welfare arrangement (MEWA) operators that have left thousands of small businesses and their employees without health insurance. We then make the way for voluntary health plan purchasing coalitions to flourish.

This bill complements S. 1028, the Health Insurance Reform Act of 1995, which is the bi-partisan bill that Senators KASSEBAUM and KENNEDY introduced last week, of which I am proud to be an original co-sponsor. As I said last week, the foundation for incremental health reform is a well-functioning private market. The Kassebaum-Kennedy bill makes great strides in addressing many of the problems in the insured market and also begins to level the playing field in both the insured and self-insured markets by applying the same national rules to both segments of the marketplace.

This Health Insurance Reform Act deals with one of the central concerns for all Americans, knowing their health insurance will be portable from job to job. Generally, portability means all people who have insurance today will be able to purchase affordable insurance tomorrow, even if they get sick, or change or lose their jobs. In order for this to occur, we have to convert the rules in today's insurance market, which reward excluding people, into rules where health plans must take all comers. The Health Insurance Reform Act takes a giant step toward this goal.

S. 1028 provides much needed improvements at the national level, but at the same time allows States the flexibility they need to move ahead

with their own reform efforts. Unfortunately, unless we make greater strides in leveling the playing field between the ERISA self-funded market and the insured market, the current trend of more and more businesses moving from the insured State regulated market to the self-insured federally regulated market, as documented in a soon to be released GAO report, will continue.

You may ask what is self-insured or self-funded anyway, and why should I be concerned about this trend? Well, self-funding is merely a pay-as-you-go financing mechanism used by employers and unions to fund health benefits for employees. The term is used synonymously for any ERISA health plan—but—in actuality ERISA health plans can be either insured or self-funded. The irony is that the term self-funded is never used in ERISA and therefore has never been defined. This lack of clarity about how much risk an ERISA plan must assume to be self-funded has caused havoc in the insured marketplace regulated by the States. This fragmentation has caused prices in the insured marketplace to continue to rise because of the risk segmentation. In addition, it is the insured market that gets assessed for providing subsidies for State high risk pools.

Employers choose to self-fund for basically two reasons. First, it provides greater flexibility and uniformity in benefit plan design and second, if you have a healthy workforce it costs less to provide your employees health benefits. Unfortunately, when some employers who self-fund experience an employee with a catastrophic illness they contain their costs by lowering life-time limits of health coverage. Our bill would prohibit this practice.

Many employees who are in self-funded ERISA plans are not aware of this fact because many of the large insurance companies, like Cigna, administer the claims and the employees' insurance card will usually say Cigna on the front. If a problem occurs with the plan most people will file a complaint with a State insurance department only to find out there is nothing the State can do because the plan is under ERISA and lacks many of the protections afforded people with insured plans.

When ERISA was passed, over 20 years ago, the many years of thought and architecture that went into the pension provisions that gave employees real security regarding their retirement were not duplicated in the health arena. As a matter of fact, the broadly drafted language of the preemption clause actually took protection away from employees who were not in an insured health plan.

A major reason the drafters did not take the same precision in the health benefit area was the certainty that this was not necessary because national health reform was just right around the corner. Well, here we are in 1995 still talking about health reform. As a matter of fact the talk has moved from the national front of last year toward looking to the States to move forward with reform. But the States are only able to reform the insured market. It is up to Congress to address the problems ERISA preemption has caused in the private market. If we do not figure out a way to level the regulatory playing field in the market we are never going to have a solid foundation for market based health reform.

The Employer Group Purchasing Reform Act levels the playing field in some significant ways. First, we define self-funding to make it clear that employers must assume substantial financial responsibility if they are to be afforded preemption from State insurance laws. Second, it emulates the portability protection individuals have when a group health plan disbands. Americans who purchase health insurance have the protection of State guarantee funds in the event a health insurer goes belly-up. Individuals who are in self-funded plans will now be assured a 3 month conversion policy in the event their employer goes out of business. Employees will no longer face a double whammy of losing a job and also their health insurance. Rather than have the Federal Government regulate and determine the appropriate solvency requirements for self-funded plans this bill has the market set the standards. Our bill will require self-funded plans to purchase involuntary plan termination insurance in the event of bankruptcy.

As I mentioned when the Kassebaum-Kennedy bill was introduced last week, I was most grateful for the inclusion of the health plan purchasing coalition section of S. 1028. I believe that the key to making health insurance more affordable for individuals and small employers is properly designed voluntary group purchasing arrangements. The health plan purchasing coalitions in our bill are very similar to those in S. 1028 except that we allow the coalition more flexibility in the design of the benefits offered through the multiple health plans in the coalition.

Employer group purchasing is not a new concept. Many employers have been pooling funds and contracting with entrepreneurs to offer health benefits to their employees at reduced rates, for many years, through something defined as MEWA's under ERISA. A MEWA is an arrangement where two or more employers group together to purchase health benefits. This definition, added to ERISA by the 1982 Erlenborn amendment, is very broad and encompassed all types of insurance-like arrangements that involve more than one employer, regardless of their corporate structure, insurance status, or status as an employee welfare benefit plan. Categorizing the various types of MEWA's is difficult primarily because different people use different terms to refer to the same entity.

While a number of MEWA's fill an important gap in our present health benefits system, some MEWA administrators have taken advantage of the confusion as to who bears the responsibility for regulatory oversight, the Feds or the States. They have been able to create and run ''Ponzi'' schemes designed to take premium payments with no intention of covering any major health claims. It has taken the States over 10 years to finally get the Federal courts to interpret that self-funded MEWA's were intended to be regulated by the States. Unfortunately, not all courts are in agreement.

My esteemed cosponsor of this legislation, Senator NUNN, led the effort to uncover the corruption in the operation of fraudulent MEWA's when he chaired the Senate Permanent Subcommittee on Investigations. He was instrumental in drafting the section of the bill that addresses MEWA reform. Simply put, we make it clear once and for all that the States are responsible for regulating all MEWA's. Therefore, the numbers of States that have moved forward in this area will no longer have to be involved in costly litigation, using precious State resources, to prove they are the regulators. Hopefully, we have now paved the way for other States to do the same. The Employer Group Purchasing Reform Act gives clear authority for State's to shut down fraudulent MEWA's and clear authority to certify the well designed and defined health plan purchasing coalitions which do not assume risk and are membership driven.

At this time, I'd like to take this opportunity to congratulate my colleague in the House, Congressman FAWELL, for leading efforts in the House to address the MEWA problems. Although we have taken different approaches to resolving this problem, I look forward to working with him and the cosponsors of his bill in finding the best way for small businesses to group together and finally get the same purchasing power in the market that has previously only been afforded to the large employers.

I won't take the time now to go over the rest of this bill but would ask unanimous consent to include a section-by-section analysis of he bill in the RECORD.

I am very excited about the bipartisan approach taken by both the Health Insurance Reform Act and the Employer Group Purchasing Reform Act. I am looking forward to working with my colleagues on the Labor Committee to make improvements in these bills and then take the best of these bills and report a bipartisan bill out of committee that we all can be proud to bring to the floor of the Senate this year.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS OF EMPLOYER GROUP PURCHASING REFORM ACT OF 1995

TITLE I—EMPLOYEE GROUP HEALTH PLAN SECURITY

Section 101. Employee Benefit Group Health Plan Non-Discrimination Requirements. Prohibits discrimination practices;

limits waiting periods based on preexisting conditions; requires credit for qualifying previous coverage; prohibits lifetime limits.

Non-discrimination. Prohibits health plans (fully-insured or self-insured) from denying coverage based on health status, medical condition, claims experience, medical history, anticipated medical needs, or disability. Plans may, however, offer discounts to members who participate in programs of health promotion or disease prevention.

Preexisting Conditions. Limits preexisting condition waiting periods to 12 months from enrollment, and then only if the condition was diagnosed or treated in the 6 month period prior to enrollment. Health plans may not impose a preexisting condition limitation to newborns or pregnancies.

Credit for Qualifying Previous Coverage. If a new health plan participant was still enrolled in qualifying coverage under another health plan within 30 days of enrollment in the health plan, the health plan must reduce its preexisting condition period by one month for each month the participant was enrolled in the previous qualifying coverage.

Lifetime limits. A health plan may not impose catastrophic or lifetime limits on any provision of its coverage.

Section 102. Disclosure Requirements. Enhances the plan notification, disclosure and termination requirements for ERISA health plan (fully insured or self-insured). Provides increased security of health benefits for employees enrolled in employer-sponsored plans.

Insurer Notification. Requires insurers to disclose, prior to selling a policy to an employer, information relating to rate changes, renewability, preexisting condition provisions, benefits.

Self-Funded Health Plans. Requires self-funded plans to inform participants that the Plan is governed by federal law, and is not subject to state laws relating to licensure, benefits, and solvency. Plans also must inform participants of the individual participant's liability for services should the plan deny benefits of become insolvent. Plans must inform participants of material changes in the terms of the plan.

SECTION 103. PROOF OF PLAN INVOLUNTARY TERMINATION POLICY.

Notification to participants. Requires plans sponsors to notify each participant of the termination of a health plan (fully insured or self-insured) as least 90 days prior to the termination. Employers may not modify benefits or contributions levels in the 90-day period before termination.

Termination Policy Required. Requires self-funded health plans to purchase an involuntary termination policy, which must provide participants 90 days of coverage beyond the plan's termination date. This gives participants 3 months of protection in case of insolvency of a self-funded plan. An exception exists for single-employer plans with a AAA bond credit rating, and for multiemployer plans that meet the requirements of §302 of the Labor Management Relations Act.

TITLE II—MULTIPLE EMPLOYER WELFARE ARRANGEMENT REFORM

Section 201. Definitions. The objective of this session is to prevent fraudulent and mismanaged MEWAs from leaving small businesses and their employees bankrupt and without health coverage.

Status of MEWA Plans. Clarifies the status of plans maintained by MEWAs by providing that even if a MEWA is not treated as a benefit plan for ERISA purposes, each employer participating in a MEWA will be treated as maintaining (through the MEWA) a benefit plan, and the employer's employees will be treated as the plan's participants.

MEWA Definition. Amends the definition of MEWA to include certain employee leasing arrangements.

MEWA Registration. Requires MEWAs to register annually with the Department of Labor.

Common Control. Clarifies the definition of common control for single employer arrangements.

Section 202. Modification of Preemption Rules for Multiple Employer Welfare Arrangements. Provides that state insurance laws apply to any MEWA which is an employee group health plan.

Section 203. Application of Criminal Penalties. Outlines felony criminal penalties for false representation of the MEWA product to any employer, employee, sponsor, State, or the Department of Labor.

TITLE III—HEALTH PLAN PURCHASING COALITIONS

Section 301. Health Plan Purchasing Coalitions. Establishes ''health plan purchasing coalitions'' to provide small employers and individuals meaningful power to negotiate prices in the health care market.

Definition. Purchasing coalitions may be formed by individuals or employers, but not by insurers, agents, or brokers.

Certification. Provides for state certification and Federal registration of purchasing coalitions.

Domicile. A purchasing coalition is considered domiciled in the State in which the most of its members are located.

Board of Directors. Provides that each purchasing coalition be governed by a board of directors; imposes certain requirements on board composition.

Membership. Permits purchasing coalitions to establish membership criteria.

Marketing Area. Permits states to establish rules regarding the geographic area served by a purchasing coalition.

Duties and Responsibilities. Delineates the following duties of a purchasing coalition: (1) enter into agreements with insured health plans; (2) enter into agreements with members; (3) participate in state established risk adjustment or reinsurance programs; (4) prepare and distribute materials to permit members to compare plans; (5) market within the service area; (6) act as ombudsman for all enrollees; and (7) perform certain other functions as approved by the board of directors.

Prohibited Activities. Prohibits the purchasing coalition from performing certain other activities, including licensing health plans and assuming financial risk.

Relationship to Plan Sponsors. Provides that members of the purchasing coalition (employers or plans) will be treated as maintaining a benefit plan on behalf of plan participants. The purchasing coalition may act as plan administrator for employer members.

Preemption of State Laws. Preempts state fictitious group laws, certain state rating requirement laws, and certain state mandated benefit laws.

Section 302. Cooperation Between Federal and State Authorities. Clarifies the roles of the Federal Government and the States with regard to MEWAs and Health Plan Purchasing Coalitions.

State Enforcement. Permits the States to apply to the Secretary for partial or complete authority to enforce provisions in the Act relating to MEWAs and purchasing coalitions.

Assistance to States. Permits the Secretary to provide assistance to the States by: (1) establishing communications between the Pension and Welfare Benefits Administration and State agencies to share information on specific cases; (2) providing technical assistance relating to regulation of MEWAs; (3) assisting States in getting advisory opinions; and (4) distributing advisory opinions to State insurance commissioners.

Mr. NUNN. Mr. President, I today join my colleague Senator JEFFORDS, the distinguished junior Senator from Vermont, in introducing legislation designed to address certain problems in the area of employer-sponsored health plans. Although the regulation of health insurance companies has been a matter historically left to the States, the provision of health benefits to employees through employer-sponsored health plans was subjected to Federal regulation under the Employee Retirement Income Security Act of 1974 [ERISA]. Unfortunately, this concurrent system of State regulation of health insurers and Federal regulation of employer-sponsored health plans has led to a great deal of ambiguity when it comes to attempts to provide legislative protection to the participants in employer health plans, particularly those in self-funded plans. This ambiguity has left many participants in these plans without certain basic insurance safeguards and has, in some instances, left employers and employees alike at the mercy of unscrupulous promoters of fraudulent insurance schemes.

The legislation Senator JEFFORDS and I are introducing today, the Employer Group Purchasing Reform Act of 1995, attempts to resolve some of these problems by amending ERISA to: (1) enhance plan notification, disclosure, and termination requirements for all ERISA health plans; (2) clarify the authority of States to regulate certain multiple employer health plan arrangements known as MEWA's; and (3) encourage the purchase of fully-insured health insurance products through the formation of employer health plan purchasing coalitions.

I am pleased to note that this legislation draws in part upon work done by the Senate Permanent Subcommittee on Investigations from 1990 to 1992. In hearings which I had the privilege of chairing in 1990, and in a subsequent report, the Subcommittee revealed how the promoters of fraudulent insurance plans have been able to use the MEWA provisions of ERISA as a shield with which to repel the legitimate efforts of State insurance regulators to protect consumers. As a result, unsuspecting employers and employees have been bilked of millions of dollars and hundreds of thousands of working men and women have been left with worthless insurance policies, unpaid medical bills and, in some instances, an inability to obtain future health care coverage.

The idea behind MEWA's is a laudable one. Small employers who otherwise might not be able to afford health insurance coverage for their employees group together in an arrangement which allows them to leverage their purchasing power in order to obtain

coverage at reasonable rates. Unfortunately, the laudable idea has been subverted by greed. Preying upon the legitimate desires of small businessmen, the promoters of fraudulent MEWA schemes have lured employers into enrolling their employees in what appear to be attractive health benefits plans at low premium rates. In reality, however, many of these plans are actuarially unsound, maintain little or no reserves, and are constantly subjected to exorbitant fees, commissions, and in some cases, outright looting.

Much to the chagrin of Congress and the States, these promoters have been able to use the provisions of the ERISA statute to further their schemes. In the first instance, they know that ERISA effectively prohibits States from applying their insurance laws to employee benefit plans, including those plans which offer health insurance. At the same time, they also know that ERISA provides little, if any, substantive Federal regulation of these plans. For example, ERISA contains no standards as to minimum reserve levels, contribution levels, or the establishment of a guaranty fund, all of which are standard features of State insurance regulations. By claiming status as an employee benefit plan, the promoters of fraudulent MEWAs are thus able to evade the regulatory requirements of State law without having imposed upon them any comparable requirements under Federal law.

In 1992, I introduced legislation to correct this situation. That legislation, the Multiple Employer Welfare Arrangement Reform Act of 1992, sought to make clear that MEWAs may be subjected to State insurance regulation regardless of their status as an employee benefit plan under ERISA. Although my legislation was not enacted in 1992, I am pleased to join with Senator JEFFORDS today to once again attempt to resolve this issue.

The legislation which we are introducing today will clarify the authority of the States to regulate MEWAs. Quite frankly, it is inconceivable to me that Congress could ever have intended that a product that walks like insurance, talks like insurance, and acts like insurance could somehow, by invoking the name of ERISA, avoid the safety and soundness protections of State insurance law.

The legislation also, for the first time, provides substantive regulatory requirements for all ERISA health benefit plans in the areas of plan disclosure, notification, and termination. One of the major problems the permanent subcommittee found in investigating MEWA fraud was that employers and employees alike really had little understanding of the nature of the plans in which they had enrolled. In particular, they often had no idea that most of these plans were self-funded and that there was no guarantee that claims would be paid. This legislation will finally ensure that employees are provided with that basic information.

Finally, our legislation attempts to encourage the laudable idea which attracted employers to MEWAs in the first instance. By providing for the creation of health plan purchasing coalitions, our legislation recognizes the difficulty many small employers have in obtaining affordable health care coverage for their employees. This legislation thus seeks to encourage employers to group together in order to leverage their purchasing power by providing a limited preemption of certain State insurance laws for such groups. At the same time, we want to make sure that these coalitions are not subverted by the same types of unscrupulous promoters who peddle fraudulent MEWA plans. The legislation therefore makes it clear that health plan purchasing coalitions may not assume any financial risk with respect to any health plan and may not provide anything other than fully-insured health plans to their members.

I believe that these provisions will go a long way toward providing the millions of Americans who receive their health benefits through their place of employment with certain basic protections that will ensure that the health benefits they are promised will be there when they need them. I am pleased to join with Senator JEFFORDS in this effort, and I look forward to working with him and my other colleagues in the Senate in addressing this important issue.

By Mr. ROTH:

S. 1063. A bill to permit State and local governments to transfer—by sale or lease—Federal-aid facilities to the private sector without repayment of Federal grants, provided the facility continues to be used for its original purpose, and for other purposes; to the Committee on Governmental Affairs.

THE FEDERAL AID FACILITY PRIVATIZATION ACT

Mr. ROTH. Mr. President, one of the great challenges facing governments throughout this country, at all levels, is how to find the funds to maintain our basic public works infrastructure. Another challenge is find ways to bring sound business practices to the management of these assets. I believe that privatization is an important tool that, in many instances, can help government meet both of these challenges.

Privatization of governmental facilities is not always the answer, but it is something we ought to look at more seriously than we have in the past. And where it makes sense, the Federal Government should do what it can, not only to undertake it itself, but also to encourage it in State and local governments.

Unfortunately, there are well-intended Federal policies that may serve unnecessarily to discourage useful privatization of certain State and local government facilities. I am referring to what are called Federal-aid facilities. These are public works facilities belonging to State and local governments that have been constructed with the assistance of Federal funds. Examples include waste water treatment facilities, airports, parking structures, turnpikes, and public utilities.

State and local governments that privatize such facilities are required to make a payment to the Federal Government, based on the amount of Federal aid that went into the facility. They are also restricted in how they can use the proceeds of the privatization. These limitations have served to discourage such privatizations.

These Federal-aid facilities can be quite costly to operate and maintain, but funds for those purposes are increasingly limited. State and local authorities will find decreasing assistance in that regard from the Federal Government, given our severe budget constraints. But private investment and operation holds out the promise of filling that financial void, and of bringing new efficiencies to these enterprises. I believe we would be wise to seek creative ways of inducing nongovernmental funds to supplement these Federal, State and local investments.

Therefore, I think it is important that we remove any unnecessary or outmoded barriers to the creation of public-private partnerships in the operation of these facilities. Legislation has been introduced in the House by Congressmen MCINTOSH and HORN, H.R. 1907, to eliminate these barriers.

Today, I am introducing that legislation—the Federal-Aid Facility Privatization Act of 1995—in the Senate. It is my intention to hold hearings in the Governmental Affairs Committee on this bill and the issues it raises.

And it does raise important issues and questions that need thorough exploration, before we go further with the legislation. Just as it is important to allow privatization where useful, it is also important to do so carefully and thoughtfully. Where Federal funds have been invested, we have a responsibility to ensure that this investment continues to serve the long-term public interest.

I believe that this legislation is a very helpful starting point for examining the best way to use privatization as a tool to further the enhancement of public assets. I appreciate the effort that has been put into it by our colleagues in the House, and I look forward to working with them on this important reform.

By Mr. HELMS (for himself, Mr. PELL, Mr. DOLE, Mr. DASCHLE, Mr. MACK, Mr. LIEBERMAN, Mrs. FEINSTEIN, Mr. MCCONNELL, Mr. LEAHY, and Mr. LAUTENBERG):

S. 1064. A bill entitled The Middle East Peace Facilitation Act of 1995; to the Committee on Foreign Relations.

THE MIDDLE EAST PEACE FACILITATION ACT OF 1995

Mr. HELMS. Mr. President, for myself and Senator PELL, I offer today the Middle East Peace Facilitation Act of 1995, which is cosponsored by the Senate's leaders, Mr. DOLE and Mr.

DASCHLE, along with Senators MACK, LIEBERMAN, FEINSTEIN, MCCONNELL, LEAHY, and LAUTENBERG.

It is for me a difficult undertaking to participate in any proposal that permits assistance to go to the Palestine Liberation Organization. I can never forget the deaths of hundreds of innocent men, women, and children at the hands of PLO terrorists, and their memory weighs heavily on me.

We have Biblical instructions to ''guide our feet into the way of peace,'' and I have undertaken to follow that dictum. I believe that this legislation demonstrates our commitment to peace—and to the terms of that peace as well.

Mr. President, I have never tried to tell Israel what to do. It was the choice of the sovereign, democratically elected government of Israel to negotiate peace with the PLO. That would not have been my decision. The United States cannot dictate the terms of Middle East peace. It can, however, dictate the terms of our assistance to the parties to the peace.

In retrospect, previous versions of this legislation have lacked needed strength. My aim in crafting this bill, along with my colleagues, was to tighten and strengthen the standards under which the President may waive existing restrictions on assistance to the Palestinians.

Within the realm of possibility, I believe we have succeeded in that aim, and now provide for a cutoff of assistance should the PLO not meet the strict requirements of this law. The Middle East Peace Facilitation Act of 1995 contains a cutoff of assistance to the PLO, if, after 6 months, certain vital conditions are not met.

Mr. President, this legislation requires that the PLO, among many other things: Eschew and condemn violence, and bar those who commit such acts from participating in Palestinian institutions; keep to commitments, and annul those portions of the Palestine National Covenant which call for the destruction of the State of Israel; observe international norms of human rights and democracy; disarm gun-toting thugs throughout territories controlled by the PLO and fight alongside Israel to arrest, prosecute and imprison terrorists and would-be terrorists.

If, 6 months from the date of enactment of this act, the President cannot certify that the PLO has met these most stringent and specific conditions, no money will be provided pursuant to the exercise of this act. Period.

Mr. President, it is never easy to agree on how to proceed on an emotional issue such as the Israeli-Arab peace process. I walked the beautiful hills of Judea and Samaria and it breaks my heart to see Israel relinquish its rights in those territories. It is doing so in return for what it believes will be a lasting peace. We in the United States must do everything in our power to ensure that it is a real peace. I hope this legislation contributes to that effort.

This is not a perfect work, but it is the product of many hours of labor and, yes, with some reluctant compromise. I thank Senator PELL and his staff for their cooperation in this effort.

Mr. PELL. Mr. President, I am pleased to join the distinguished chairman of the Foreign Relations Committee, Senator HELMS in introducing the Middle East Peace Facilitation Act of 1995.

This legislation is the follow-on to legislation that Senator HELMS and I authored last year, which provides the President with the authority to waive certain legislative restrictions against the Palestine Liberation Organization.

In September 1993, when Yasir Arafat shook Israeli Prime Minister Yitzhak Rabin's hand on the White House lawn under President Clinton's approving gaze, the PLO and Israel began a historic process toward peaceful coexistence. In order for the United States to facilitate that process, the administration requested Congress to provide the President with a certain amount of flexibility to deal with the PLO. The Congress agreed, in the form of the Middle East Peace Facilitation Act of 1994, to provide the President with waiver authority to enable the provision of U.S. assistance to the Palestinians and the opening of a PLO office in the United States. That authority was provided subject to the President's certification that the PLO was abiding by its commitments with Israel and with the United States—in other words, that the PLO was behaving responsibly and was true to its word with regard to Israel.

As many of my colleagues know, the authorities under the Middle East Peace Facilitation Act of 1994 expired at the beginning of this month, and the Congress enacted a short-term extension to gain additional time to pass new legislation. I am pleased to be joining Senator HELMS and my other colleagues in introducing that new legislation today.

The Middle East Peace Facilitation Act of 1995 is a bipartisan effort, and the product of many hours of negotiations between Republican and Democratic Senate offices, as well as representatives of the administration. The legislation, in my view, represents a good consensus view on how to continue U.S. support of the Israel-PLO peace accords. I cannot say that I am 100 percent supportive of every word in the legislation, but I am convinced that it is a reasonable approach to a difficult and complex issue. I wish in particular to express my appreciation to Chairman HELMS and his staff for their flexibility and their good faith efforts in the negotiation of the text of the bill.

Mr. President, the Middle East peace process has always enjoyed bipartisan support, and it serves vital U.S. interests in the region. I hope that the Senate will join us in supporting and enacting this critical legislation.

Mr. MACK. Mr. President, I have decided to join my colleagues in support of the Middle East Peace Facilitation Act. I do so with some mixed feelings.

With Senator LIEBERMAN, I was an author of the concept of PLO compliance and of the legislation that makes that concept the law of the United States. The concept of PLO compliance is at the heart of the entire peace process. We often say that the peace process strikes a delicate balance between strict demands on the PLO and understanding the difficulties they face in making peace with Israel. Frankly, there are times when it is difficult to accept that balance. What difficulties can there be to renouncing terror, and to abandoning vows to destroy Israel?

Here I would like to draw attention to what this legislation contains, because there must be no mistake: The Congress is disturbed by the PLO's record since its decision to make peace with Israel. I would like, here, to thank my colleagues, Senators HELMS and PELL, who worked extremely hard together to draft this legislation.

This legislation moves us closer to a cut-off of aid, which is the inescapable result of the PLO's failure to fulfill its promises. This legislation is very critical of the PLO. It incorporates all the promises of the Gaza-Jericho Agreement dealing with prevention of terrorism, abstention and prevention of incitement and hostile propaganda, the operation of armed forces other than the Palestinian Authority, weapons offenses, extradition of criminal suspects and other law enforcement and rule-of-law issues.

This legislation also addresses the issue of accountability. The President must certify that aid is being used for the purposes Congress intends. This is a standard that cannot be evaded. We will be watching the PLO closely. We are helping the Palestinian Authority financially because it helps Israel and it helps ordinary Palestinians who desperately need health care, education, and other assistance. We are not providing aid to be wasted or siphoned away by Palestinian Authority officials, or to help them, in any way, evade their commitments.

This legislation also lets the administration know that its approach to PLO compliance needs improvement, and expressly requires congressional notification of the President's determinations regarding compliance. Here I would note that to the extent that the State Department accepts and minimizes PLO violations, the Department permits the PLO to imagine that its commitments may be obviated. We do not believe that this is the administration's intent. However, we are equally sure that it is the inevitable outcome of the failure of U.S. policy to clearly address PLO compliance.

The current situation cannot go on indefinitely. The Palestinian Authority

must make a choice. Either it recognizes that its commitments to Israel form the basis of a permanent peace, or it continues the charade of compliance until the peace process is irreparably damaged. The sooner the Palestinian Authority realizes that these commitments are inescapable and will not be overlooked by the international community, the sooner the peace process will become simply peace.

Mr. LIEBERMAN. Mr. President, I am pleased to be an original cosponsor of the Middle East Peace Facilitation Act [MEPFA] of 1995 joining the majority and minority leaders, Senators DOLE and DASCHLE, the chairman and ranking member of the Foreign Relations Committee, Senators HELMS and PELL, my coauthor of the 1989 PLO Commitments Compliance Act, Senator MACK, and Senator FEINSTEIN. This act supports continued progress in the important process of achieving a stable, lasting peace for Israel and the Middle East. This act alone will not bring peace to this troubled region, but without it the task becomes exceedingly difficult if not impossible. America's support for the peace process has been long, steady and essential. The Middle East Peace Facilitation Act of 1995 enables the United States to continue the important role we have played and must continue to pay.

Much of the road to a secure peace remains ahead of us. Yet we must not forget how much progress has already been made. Prime Minister Rabin and Chairman Arafat have taken considerable risks—both personal and for their people—to reach the point we are at today. The United States, and most especially President Clinton and Secretary Christopher, has remained by the side of the negotiators every step of the way—facilitating the process, prodding where necessary, and, always, supporting the negotiating parties. It is critical that the provisions which MEPFA allows—waiver of certain restrictions and authorities—remain in force if we are all to remain on the path to peace.

I continue to believe that PLO compliance with its commitments remains an essential element in the quest for peace. There is little doubt that the Palestinian Authority has not yet fulfilled all the commitments Chairman Arafat made in the declaration of principles signed at Oslo and other agreements reached between Israel and the PLO.

The Middle East Peace Facilitation Act of 1995 maintains conditions and reporting requirements critical to ensure that the PLO commitments are carried out. This act strengthens the requirements which the Palestinian Authority must meet in order for United States aid and waiver authorities to continue. It takes into account many of the criticisms which have, correctly, been made of existing legislation. The act makes far clearer the linkage between United States assistance and the firm obligation of the Palestinian Authority to comply with all the commitments it has freely made. There should be no confusion that the United States—and the cosponsors of this bill—is intent on seeing this process through to a real peace brought about by both sides negotiating in good faith and fulfilling their obligations.

The Middle East Peace Facilitation Act has been a vital component of the Middle East peace process, and has served as an effective and powerful tool in monitoring and compelling PLO compliance with its commitment to peace and fighting terror and extremism. This bill strengthens MEPFA. The peace process and this bill deserve our full support.

ADDITIONAL COSPONSORS

S. 327

At the request of Mr. HATCH, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 724

At the request of Mr. KOHL, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 724, a bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders, and for other purposes.

S. 837

At the request of Mr. WARNER, the names of the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Alabama [Mr. SHELBY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Kansas [Mr. DOLE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Indiana [Mr. LUGAR], the Senator from Idaho [Mr. CRAIG], the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Rhode Island [Mr. PELL] were added as cosponsors of S. 837, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 250th anniversary of the birth of James Madison.

S. 890

At the request of Mr. KOHL, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 890, a bill to amend title 18, United States Code, with respect to gun free schools, and for other purposes.

S. 907

At the request of Mr. MURKOWSKI, the names of the Senator from South Dakota [Mr. PRESSLER] and the Senator from Wyoming [Mr. SIMPSON] were added as cosponsors of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

S. 940

At the request of Mr. GORTON, his name was added as a cosponsor of S. 940, a bill to support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes.

969

At the request of Mr. BRADLEY, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of a child, and for other purposes.

SENATE RESOLUTION 146

At the request of Mr. JOHNSTON, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 146, a resolution designating the week beginning November 19, 1995, and the week beginning on November 24, 1996, as ''National Family Week,'' and for other purposes.

AMENDMENTS SUBMITTED

THE MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1996

BINGAMAN (AND OTHERS) AMENDMENT NO. 1834

Mr. BINGAMAN (for himself, Mr. MCCAIN, Mr. KERREY, and Mr. FEINGOLD) proposed an amendment to the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; as follows:

On page 22, between lines 2 and 3, insert the following:

SEC. 127. Notwithstanding any other provision of this Act, the total amount appropriated by this Act for military construction and family housing is hereby reduced by $300,000,000.

SIMON (AND MOSELEY-BRAUN) AMENDMENT NO. 1835

Mr. SIMON (for himself and Ms. MOSELEY-BRAUN) proposed an amendment to the bill H.R. 1817, supra; as follows:

At the appropriate place, insert the following: